

clear distinction between special Government employees and others employed by the Federal government.

(b) *Special Government employee* means an individual who is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days.

(c) *Person* means an individual, a corporation, a company, an association, a firm, a partnership or any other organization.

(d) *Former employee* means a former employee of HHS or former special Government employee as defined in paragraph (b) of this section.

(e) *Principal Operating Component* has the meaning given to that term in the Department's General Administration Manual. In addition, when used in these regulations, it includes the Office of the Secretary.

(f) *Department* means the Department of Health and Human Services.

**§ 73.735–103 Applicability.**

(a) The regulations in this part apply to all employees of the Department and to special Government employees to the extent indicated in Subparts J and K. They apply whether an employee is on leave, including leave without pay, or on duty.

(b) These regulations may be supplemented by regulations governing principal operating components, or subunits of principal operating components, provided the clearance and publication requirements for standards of conduct regulations are met and approval is obtained from the Department Ethics Counselor and the Assistant Secretary for Personnel Administration.

**Subpart B—Responsibilities**

**§ 73.735–201 Employees and supervisors.**

(a) Employees and special Government employees shall be responsible for observing all generally accepted rules of conduct and the specific provisions of law and the regulations of this part that apply to them. They are required to become familiar with these

regulations and to exercise informed judgments to avoid misconduct or conflicts of interest. They shall secure approvals when required and file financial disclosure reports or statements in accordance with the provisions of this part. Failure to observe any of these regulations may be cause for disciplinary action. Some of the provisions are required by law and carry criminal penalties which are in addition to any disciplinary action which could be taken. When employees have doubts about any provision, they should consult their supervisor, personnel office, or the Department Ethics Counselor or a deputy counselor.

(b) Supervisors, because of their day-to-day relationships with employees, are responsible to a large degree for making sure high standards of conduct are maintained. They must become familiar with the Department's standards of conduct regulations and apply the standards to the work they do and supervise. Supervisors shall take suitable action, including disciplinary action in accordance with Subpart L of these regulations, when violations occur.

**§ 73.735–202 Management officials.**

(a) The Department has an obligation to enforce the requirements of this part in all respects and to help employees, special Government employees, and supervisors carry out their responsibilities to maintain high standards of ethical conduct. This includes an obligation for managers to provide information and training concerning the HHS conduct regulations, to provide advice and guidance with respect to them, and to review for possible conflicts of interest certain outside activities and financial interests of employees. The officials responsible for discharging the Department's obligations in this regard are identified in paragraphs (b) through (f) of this section.

(b) Department Ethics Counselor. The Assistant General Counsel, Business and Administrative Law Division, shall be the Department Ethics Counselor and shall serve as the Designated Agency Official for matters arising under the Ethics in Government Act of

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1978, (Pub. L. 95-521). The responsibilities of the Department Ethics Counselor shall include:

(1) Rendering authoritative advice and guidance on matters of general applicability under the standards of this part and all other laws and regulations governing employee conduct, with particular reference to conflicts of interest matters.

(2) Coordinating the Department's counselling and training services regarding conflicts of interest and assuring that employees of the Department are kept informed of developments in conflict of interest laws and other related matters of ethics.

(3) Receiving information on conflicts of interest and appearances of conflicts of interest involving employees of the Department and forwarding this information to the appropriate management official, or the Inspector General, as necessary, with his or her legal evaluation of the matters addressed.

(4) Reviewing the financial disclosure reports, requests for approval of outside activities, and similar reports filed by Executive level officers, non-career executives, deputy ethics counselors, and Schedule C employees in the Office of the Secretary for the purpose of identifying and resolving possible and actual conflicts of interest.

(5) Maintaining liaison with the Office of Government Ethics.

(6) Advising management officials on the resolution of conflicts of interest by any of the remedies set forth in § 73.735-904 of this part.

(7) Maintaining accurate and complete documentation of all formal guidance and advice regarding conflict of interest matters subject to the provisions of this part, except for routine or repetitious cases where the guidance given is not precedential.

(8) Maintaining and publishing from time to time a list of those circumstances or situations which have resulted or may result in noncompliance with conflict of interest laws or regulations. [Section 206(b)(7), Pub. L. 95-521].

(9) Designating and training an appropriate number of reviewing officials to assist him or her in carrying out the

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duties of the Designated Agency Official under the Ethics in Government Act.

(10) Maintaining effective lines of communication with deputy ethics counselors on all matters regarding employee conduct and ethics.

(c) Deputy Ethics Counselors. Assistant General Counsels and Regional Attorneys are designated deputy ethics counselors to assist the Department's Counselor in carrying out his or her responsibilities, particularly with respect to employees in the organization in which the deputy counselor serves. Regional Attorneys shall provide such assistance for all employees of the Department in organizations for which the Principal Regional Official provides personnel services.

(d) The Assistant Secretary for Personnel Administration shall be responsible for developing and issuing procedures and requirements for the implementation of these regulations and for monitoring the application of such procedures and requirements throughout the Department.

(e) Heads of Principal Operating Components and the Assistant Secretary for Management and Budget for the Office of the Secretary shall be ultimately responsible for assuring that persons who work for their respective organizations comply with the standards of this part. Their responsibilities shall include:

(1) Designating officials to review and approve outside activity requests in accordance with § 73.735-708 of this part or statements of employment or financial interests under § 73.735-902. A list of the officials designated for these purposes shall be provided to the Department Ethics Counselor and to the Assistant Secretary for Personnel Administration and shall be updated in January and July of each year.

(2) Designating for the components of his or her organization, other than those for which a principal regional official provides personnel services, one or more individuals to oversee and coordinate the administrative aspects of these regulations. Responsibilities of such a person include making sure each employee or special government employee is provided a copy of these regulations, or an appropriate summary thereof; ensuring that training in the

requirements of the regulations is provided to supervisors and to new employees; providing for the distribution, receipt, review and retention of financial interest reports and statements as directed by the Department Ethics Counselor and the Assistant Secretary for Personnel Administration; sending annual reminders as required; providing for a file of outside work requests; giving information and assistance to employees on a day-to-day basis; and making available to employees the names and addresses of the Department's Ethics Counselor and deputy ethics counselors.

(f) Principal Regional Officials (PROs) shall designate one or more regional employees to perform, for components for which personnel services are provided by the PROs, the responsibilities in paragraph (e)(2) of this section.

### **Subpart C—Conduct on the Job**

#### **§ 73.735–301 Courtesy and consideration for others.**

(a) An employee's conduct on the job is, in all respects, of concern to the Federal government. Courtesy, consideration, and promptness in dealing with the public must be shown in carrying out official responsibilities, and actions which deny the dignity of individuals or conduct which is disrespectful to others must be avoided. Employees must recognize that inattention to matters of common courtesy can adversely affect the quality of service the Department is responsible for providing. Where appropriate, courtesy to the public should be included in the standards for employee performance.

(b) Of equal importance is the requirement that courtesy be shown in day-by-day interaction with co-workers. Employees shall be polite to and considerate of other employees, and shall respect their needs and concerns in the work environment.

#### **§ 73.735–302 Support of department programs.**

(a) When a Department program is based on law, Executive Order or regulation, every employee has a positive obligation to make it function as efficiently and economically as possible

and to support it as long as it is a part of recognized public policy. An employee may, therefore, properly make an address explaining and interpreting such a program, citing its achievements, defending it against uninformed or unjust criticism, or soliciting views for improving it.

(b) An employee shall not, either directly or indirectly, use appropriated funds to influence, or attempt to influence, a Member of Congress to favor or oppose legislation. However, when authorized by his or her supervisor, an employee is not prohibited from:

(1) Testifying, on request, as a representative of the Department on pending legislation or proposals before Congressional Committees; or

(2) Assisting Congressional Committees in drafting bills or reports on request, when it is clear that the employee is serving solely as a technical expert under the direction of committee leadership.

(c) All employees shall be familiar with regulations and published instructions that relate to their official duties and responsibilities and shall comply with those directives. This includes carrying out proper orders from officials authorized to give them.

(d) Employees are required to assist the Inspector General and other investigative officials in the performance of their duties or functions. This requirement includes the giving of statements or evidence to investigators of the Inspector General's office or other HHS investigators authorized to conduct investigations into potential violations.

#### **§ 73.735–303 Use of government funds.**

(a) An employee shall not:

(1) Improperly use official travel;

(2) Improperly use payroll and other vouchers and documents on which Government payments are based;

(3) Take or fail to account for funds with which the employee is entrusted in his or her official position; or

(4) Take other Government funds for personal use. Violation of these prohibitions carry criminal penalties.

(b) In addition, employees shall avoid wasteful actions or behavior in the performance of their assigned duties.